

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

FILED

March 18, 2021

**OFFICE OF
APPELLATE COURTS**

In Re Petition for Disciplinary Action
against KIP WILLIAM KOOTZ,
a Minnesota Attorney,
Registration No. 026362X.

**STIPULATION FOR DISPENSING
WITH PANEL PROCEEDINGS,
FOR FILING PETITION FOR
DISCIPLINARY ACTION,
AND FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Susan M. Humiston,
Director of the Office of Lawyers Professional Responsibility (Director), and Kip
William Kootz, attorney (respondent).

WHEREAS, respondent has concluded it is in respondent's best interest to enter
into this stipulation,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
between the undersigned as follows:

1. It is understood that respondent has the right to have charges of
unprofessional conduct heard by a Lawyers Professional Responsibility Board Panel
prior to the filing of a petition for disciplinary action, as set forth in the Rules on
Lawyers Professional Responsibility (RLPR). Pursuant to Rule 10(a), RLPR, the parties
agree to dispense with Panel proceedings under Rule 9, RLPR, and respondent agrees
to the immediate filing of a petition for disciplinary action (petition) in the Minnesota
Supreme Court.

2. Respondent understands that upon the filing of this stipulation and the
petition, this matter will be of public record.

3. It is understood that respondent has certain rights pursuant to Rule 14,
RLPR. Respondent waives these rights, which include the right to a hearing before a
referee on the petition; to have the referee make findings and conclusions and a

recommended disposition; to contest such findings and conclusions; and to a hearing before the Supreme Court upon the record, briefs and arguments. Respondent admits service of the petition.

4. Respondent waives the right to answer and unconditionally admits the allegations of the petition for disciplinary action.

5. Respondent understands that based upon these admissions, this Court may impose any of the sanctions set forth in Rule 15(a)(1) - (9), RLPR, including making any disposition it deems appropriate. Respondent understands that by entering into this stipulation, the Director is not making any representations as to the sanction the Court will impose.

6. The Director and respondent join in recommending that:

a. The appropriate discipline is a 30-day suspension pursuant to Rule 15, RLPR;

b. The reinstatement hearing provided for in Rule 18(a) through (d), RLPR, be waived;

c. Respondent be required to successfully complete the professional responsibility portion of the state bar examination within one year of the date of this Court's order;

d. Respondent comply with Rule 26, RLPR;

e. Respondent pay \$900 in costs pursuant to Rule 24(a), RLPR.

f. Respondent shall be placed on unsupervised probation for five years, under the following conditions:

i. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall provide to the Director a current mailing address and shall immediately notify the Director of any change of address. Respondent

shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

ii. Respondent shall abide by the Minnesota Rules of Professional Conduct.

iii. Respondent shall maintain total abstinence from alcohol and other mood-altering chemicals, except that respondent may use prescription drugs in accordance with the directions of a prescribing physician who is fully advised of respondent's chemical dependency before issuing the prescription.

iv. Respondent shall, at his own expense, once per month, submit to random urinalysis for drug and alcohol screening at a facility approved by the Director and shall direct the drug/alcohol screening facility to provide the results of all urinalysis testing to the Director's Office. If, after six months, all such tests have been negative, then the frequency of the random tests may be reduced. Respondent shall submit to tests as directed by the Director, taking into consideration respondent's recent leg injuries, respondent's current inability to travel out of his home due to his leg injuries, and COVID-related safety concerns. Any failure to cooperate with testing shall be considered the same as receipt of a positive test result. Any positive test result will be grounds for revoking this probation.

v. Respondent shall continue attending weekly meetings of Alcoholics Anonymous or other abstinence-based recovery support group or program acceptable to the Director. Respondent shall, by the tenth day

of each month, without a specific reminder or request, submit to the Director an attendance verification on a form provided by the Director, which provides the name, address and telephone number of the person personally verifying the attendance.

vi. Respondent shall notify the Director of any arrest, charges, or indictment for any criminal offense, in any jurisdiction, within ten days of the arrest or issuance of the charges/indictment.

vii. If at any time during the period of probation, after giving respondent an opportunity to be heard by the Director, the Director concludes that respondent has violated the conditions of the probation or engaged in further misconduct, the Director may file a petition for disciplinary action against respondent in the Minnesota Supreme Court without the necessity of submitting the matter to a Panel or Panel Chair. Respondent waives the right to such consideration by the Panel or Panel Chair.

g. Respondent be reinstated following the expiration of the suspension provided that at least 15 days before the expiration of the suspension period, respondent files an affidavit with the Clerk of Appellate Courts and the Director's Office establishing that respondent is current with Continuing Legal Education, has fully complied with Rules 24 and 26, RLPR, and has satisfactorily completed all other conditions imposed by the Court in its decision.

7. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

8. Respondent acknowledges receipt of a copy of this stipulation.

9. Respondent has been advised of the right to be represented herein by an attorney but has freely chosen to appear *pro se*.

IN WITNESS WHEREOF, the parties executed this stipulation on the dates indicated below.

Susan M. Humiston

Humiston, Susan
Feb 11 2021 11:52 AM

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Ratnayake, Keshini
Feb 11 2021 11:41 AM

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Dated: MARCH 15, 2021.

KIP WILLIAM KOOTZ

KIP WILLIAM KOOTZ
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MEMORANDUM

The State of Florida disbarred respondent on April 2, 2020, for having multiple DWI convictions and failing to report the convictions to the Florida Bar Counsel, as required by the Florida Rules of Discipline. The Director considered this matter for potential reciprocal discipline and determined that disbarment would be substantially different from the discipline warranted in Minnesota for similar conduct. While the Director recognizes that respondent's disbarment in Florida is serious, the Director believes the stipulated discipline is appropriate for the following reasons.

First, unlike others who have received public discipline for DWIs in Minnesota, respondent does not have a felony conviction. See *In re Post*, 686 N.W.2d 529 (Minn. 2004) (attorney's conviction for felony DWI warranted six-month stayed suspension upon condition that attorney complied with specified conditions of probation for period of five years); *In re Davis*, 740 N.W.2d 568 (Minn. 2007) (stayed six-month suspension upon condition that attorney complied with specified conditions of probation for period of seven years).¹ Although respondent's most recent DWI conviction (in Florida) was charged as a felony, respondent was ultimately convicted of a misdemeanor, which generally results in private discipline in Minnesota. Nonetheless, because respondent engaged in felony-level conduct when he was convicted of DWI for a fifth time in Florida, the Director believes public discipline is warranted in this case and a 30-day suspension is appropriate.

Second, respondent has maintained his sobriety since 2017 and has completed treatment. Respondent also successfully completed his criminal probation in Florida. Respondent has also agreed to a probation period of five years, which requires respondent to conduct random testing and report any future criminal charges, including DWIs.

¹ Davis was subsequently convicted of a second felony DWI offense, and this Court revoked two months of the previously stayed six-month suspension from 2007. *In re Davis*, 799 N.W.2d 602 (Minn. 2011).

Finally, Florida's disbarment was specific to violations of Florida's rules, including the requirement that respondent report his DWI convictions. There is no such rule in Minnesota. Therefore, to the extent respondent's failure to report, in combination with his numerous DWIs, supported Florida's disbarment, such misconduct has been appropriately addressed by the Florida disciplinary authority.

Taking all of these factors into consideration, the Director believes a 30-day suspension with a five-year period of probation is the appropriate discipline in this matter, as it will protect the public and fulfill the purposes of discipline.